

FIRST REGULAR SESSION

SENATE BILL NO. 397

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SHOEMYER AND GRIESHEIMER.

Read 1st time February 18, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1123S.04I

AN ACT

To amend chapter 324, RSMo, by adding thereto twenty-seven new sections relating to the regulation of the auto body repair industry, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto twenty-
2 seven new sections, to be known as sections 324.1180, 324.1183, 324.1186,
3 324.1189, 324.1192, 324.1195, 324.1198, 324.1201, 324.1204, 324.1207, 324.1210,
4 324.1213, 324.1216, 324.1219, 324.1222, 324.1225, 324.1228, 324.1231, 324.1237,
5 324.1240, 324.1243, 324.1246, 324.1249, 324.1252, 324.1255, 324.1258, and
6 324.1261, to read as follows:

**324.1180. For purposes of sections 324.1180 to 324.1261, the
2 following terms mean:**

3 **(1) "Auto body physical damage appraiser", any individual who
4 assesses, compares, or estimates damage to motor vehicles not owned
5 by that individual, company, or their agents;**

6 **(2) "Auto body repair facility", a business that repairs physical
7 damage to motor vehicles that are not owned by the shop or its officers
8 or employees by mending, straightening, or replacing body parts,
9 painting, or paintless dent repair;**

10 **(3) "Board", the board of auto body repair;**

11 **(4) "Department", the department of insurance, financial
12 institutions, and professional registration;**

13 **(5) "Director", the director of the division of professional
14 registration.**

15 **(6) "Division", the division of professional registration in the
16 department of insurance, financial institutions and professional**

17 registration;

18 (7) "Practice of auto body repair", renders or repairs physical
19 damage of motor vehicles by mending, straightening, or replacing body
20 parts, painting, or paintless dent repair, or changes the appearance of
21 over four motor vehicles per year.

324.1183. 1. There is hereby established within the division, the
2 "Board of Auto Body Repair" which shall guide, advise and make
3 recommendations to the division and fulfill other responsibilities
4 designated by sections 324.1180 to 324.1261.

5 2. The board shall consist of seven members, including one
6 public member, appointed by the governor with the advice and consent
7 of the senate. Each member of the board shall be a citizen of the
8 United States, a resident of this state for at least one year preceding
9 appointment and a registered voter. Two members of the board shall
10 be drawn from the auto insurance industry. Four members of the board
11 shall be drawn from the auto body repair industry. Members shall
12 serve on the board until a successor is appointed by the governor. The
13 membership of the board shall be geographically dispersed with no
14 more than one member appointed from the same congressional district.

15 3. Of the initial members appointed, three members shall be
16 appointed for four years, two members shall be appointed for three
17 years and two members shall be appointed for two years. Thereafter,
18 all members shall be appointed to serve four-year terms.

19 4. A vacancy in the office of a member shall be filled by
20 appointment by the governor for the remainder of the unexpired term.

21 5. The board shall hold an annual meeting at which it shall elect
22 from its membership a chairperson and vice chairperson. The board
23 may hold such additional meetings as may be required in the
24 performance of its duties. A quorum of the board shall consist of a
25 majority of its members.

26 6. The governor may remove a board member for misconduct,
27 incompetence or neglect of official duties after giving the board
28 member written notice of the charges and allowing the board member
29 an opportunity to be heard. Members can also be terminated for the
30 following reasons: change of legal residence by moving out of the state;
31 missing three consecutive meetings; or having the professional license
32 revoked or suspended.

33 7. The public member shall be, at the time of appointment, a
34 citizen of the United States; a resident of this state for a period of one
35 year preceding appointment and a registered voter; but may not have
36 been engaged in any business or profession licensed or regulated by the
37 board or be an immediate family member of a person engaged in any
38 business or profession licensed or regulated by the board; and may not
39 have had a material, financial interest in the practice of auto body
40 repair or in an activity or organization directly related to any
41 profession licensed or regulated under sections 324.1180 to
42 324.1261. The duties of the public member shall not include any
43 determination of the technical requirements to be met for licensure,
44 whether a candidate for licensure meets such technical requirements,
45 or of the technical competence or technical judgment of a licensee or
46 a candidate for licensure.

47 8. Notwithstanding any other provision of law to the contrary,
48 any appointed member of the board shall receive as compensation an
49 amount established by the director not to exceed seventy dollars per
50 day for board business plus actual and necessary expenses.

51 9. No licensing activity or other statutory requirements shall
52 become effective until expenditures or personnel are specifically
53 appropriated for the purpose of conducting the business as required to
54 administer the provisions of 324.1180 to 324.1261 and the initial rules
55 filed have become effective.

56 10. The board shall keep records of its official acts, and certified
57 copies of any such records attested by a designee of the board shall be
58 received as evidence in all courts to the same extent as the board's
59 original records would be received.

60 11. There is hereby created in the state treasury the "Board of
61 Auto Body Repair Fund", which shall consist of money collected under
62 sections 324.1180 to 324.1261. The state treasurer shall be custodian of
63 the fund and shall approve disbursements from the fund in accordance
64 with sections 30.170 and 30.180, RSMo. Upon appropriation, money in
65 the fund shall be used solely for the administration of sections 324.1180
66 to 324.1261. Notwithstanding the provisions of section 33.080, RSMo, to
67 the contrary, money in this fund shall not be transferred and placed to
68 the credit of general revenue until the amount in the fund at the end
69 of the biennium exceeds three times the amount of the appropriation

70 from the fund for the preceding fiscal year. The state treasurer shall
71 invest moneys in the fund in the same manner as other funds are
72 invested. Any interest and moneys earned on such investments shall be
73 credited to the fund.

324.1186. 1. The board shall establish and administer a licensing
2 program for the licensure of auto body repair facilities. An auto body
3 repair facility shall be licensed by the board upon submission and
4 approval of a written application and payment of an annual license fee
5 of two hundred fifty dollars.

6 2. Application for a license shall be on a form prescribed by the
7 board, and shall contain all information the board may require by rule
8 and regulation.

9 3. Applications for a new or renewal of an auto body repair
10 facility license shall be reviewed by the board and a license shall be
11 issued or denied within ninety days following receipt by the board of
12 the completed application and supporting documents. If the
13 application for a license is denied, the auto body repair facility may
14 request a hearing in accordance with section 324.1213.

15 4. Upon the sale or other transfer of ownership interest in a
16 licensed auto body repair facility, the new owner may continue to
17 operate under the previous owner's auto body repair facility license for
18 a period of ninety days, during which time the new owner shall submit
19 an application for licensure on its own behalf.

324.1189. In order to qualify for an auto body repair facility
2 license or a renewal of a license under sections 324.1180 to 324.1219, an
3 auto body repair facility shall:

4 (1) Have all required licenses, permits and registrations for the
5 conduct of business including, but not limited to: a federal tax
6 identification number; a Missouri tax identification number; a
7 hazardous waste license and an Environmental Protection Agency
8 identification number or evidence of exemption from such permits; and
9 any other licenses and permits as the board may find applicable;

10 (2) Provide proof of insurance coverage for damage to property
11 and for liability arising from bodily injury, including, but not limited
12 to: garage keeper's liability insurance or other type of liability
13 insurance that protects customers' property and provides the public
14 and employees with remedies for liability arising from the business

15 operations; workers' compensation insurance coverage as required by
16 chapter 287, RSMo; fire insurance, and any other insurance coverage
17 in an amount and form that conforms to the rules and regulations
18 adopted by the board;

19 (3) Provide evidence of compliance with the Environmental
20 Protection Agency and Occupational Safety and Health Administration
21 requirements for annual training in safety and environmental concerns
22 as set forth in 29 CFR 1910.1200(h)(1), 29 CFR 1910.120(e)(8), 40 CFR
23 68.71, 40 CFR 721.72(d), and 40 CFR 763;

24 (4) Provide evidence that employees performing repairs at the
25 auto body repair facility have completed or are in the process of
26 completing National Institute for Automotive Service Excellence (ASE)
27 certification for the type of work being performed;

28 (5) Provide evidence, for license renewal, of completion of
29 continuing education requirements, which may be met by completion
30 of training courses available through the Inter-Industry Conference on
31 Auto Collision Repair, (ICAR), industry manufacturers or trade
32 associations, or a generally recognized auto body repair training
33 program;

34 (6) (a) Possess proper equipment necessary for the practice of
35 auto body repair as determined by the board based on industry
36 standards and as set forth in the board's rules and regulations. Auto
37 body repair facilities that utilize spray painting refinish operations
38 shall have an enclosed area for refinishing which complies with all
39 applicable local, state, and federal safety, fire, environmental
40 regulations; and

41 (b) An applicant for an auto body repair facility license who does
42 not meet the equipment requirements may satisfy those requirements
43 by entering into and maintaining a written agreement or agreements
44 with another entity to perform the services for which the equipment is
45 required;

46 (7) Possess and maintain a current auto body repair facility
47 reference source for estimating the cost of repairs in either book or
48 computerized form which is generally accepted by the auto body repair
49 industry.

324.1192. 1. Businesses that specialize solely in wheel
2 reconditioning, leather and vinyl repair, air bag replacement, rust

3 **proofing, four wheel alignment, air conditioning services, mechanical**
4 **repairs, or glass replacement services, are not required to obtain an**
5 **auto body repair facility license in order to conduct business.**

6 **2. Temporary paintless dent repair facilities associated with a**
7 **licensed auto body repair facility shall pay a licensing fee of one**
8 **hundred dollars for each temporary location. Temporary paintless dent**
9 **repair businesses not associated with a licensed auto body repair**
10 **facility shall:**

11 **(1) Pay a license fee of three hundred fifty dollars for each**
12 **temporary location that is established. The license shall expire when**
13 **the temporary facility ceases operation at the licensed location or**
14 **every six months; and**

15 **(2) Provide proof that the business has paid all required fees and**
16 **is lawfully able to do business in Missouri.**

324.1195. 1. An auto body repair facility that substantially
2 **complies with the licensure requirements of sections 324.1180 to**
3 **324.1219 may apply for a temporary license for up to ninety days to**
4 **provide additional time to come into compliance with licensing**
5 **standards such as training requirements, equipment, and other**
6 **circumstances as the board may prescribe by rule or regulation.**

7 **2. An auto body repair facility with proof of continuous**
8 **operation for a five-year period prior to August 28, 2009 shall be able**
9 **to obtain a provisional license. The facility shall have one calendar**
10 **year to meet any requirements that they do not meet at the time of**
11 **application. Continuing education requirements must be commenced**
12 **within ninety days of the issuance of license. If after the period of one**
13 **year the auto body repair facility has not met the licensing**
14 **requirements of sections 324.1180 to 324.1219, the board shall notify the**
15 **holder of the provisional license by certified mail of the failure to**
16 **qualify for a license and that operation must cease until such time as**
17 **the requirements of sections 324.1180 to 324.1219 are met. If the auto**
18 **body repair facility fails to cease operations, the board may levy a fine**
19 **of two hundred fifty dollars per calendar day that the facility continues**
20 **to operate.**

324.1198. Every licensed auto body repair facility shall display
2 **their license and retail labor rates in a prominent location so that they**
3 **are readily visible to the facility's customers.**

324.1201. The board shall maintain a current roster of all auto
2 body repair facilities licensed to do business in the state of
3 Missouri. The roster shall be available electronically in a format
4 prescribed by the board.

324.1204. A licensed auto body repair facility with a repair order
2 signed by the vehicle owner on the auto body repair facility estimate
3 or work order shall be deemed to have a contract with the owner of the
4 vehicle for the repair of that vehicle. No auto body repair facility shall
5 start work on the vehicle without the vehicle owner's signature. The
6 licensed auto body repair facility is entitled to recover any and all
7 costs and expenses if the contract is cancelled before the repair work
8 is completed. Costs shall be payable before the vehicle is removed from
9 the licensed facility's premises.

324.1207. 1. The board may refuse to issue or deny renewal of
2 any license required under sections 324.1180 to 324.1219 for failure to
3 comply with the provisions of sections 324.1180 to 324.1219 or any
4 regulations promulgated by the board to implement provisions of
5 324.1180 to 324.1219. The board shall notify the applicant in writing of
6 the reasons for the denial and shall advise the applicant of their right
7 to file a complaint with the administrative hearing commission as
8 provided by chapter 621, RSMo.

9 2. The board may cause a complaint to be filed with the
10 administrative hearing commission as provided by chapter 621, RSMo,
11 against any holder of any license required by sections 324.1180 to
12 324.1219 or any facility that has failed to obtain, renew, or has
13 surrendered their license for any one or any combination of the
14 following causes:

15 (1) Being finally adjudicated and found guilty, or having entered
16 a plea of guilty or nolo contendere, in a criminal prosecution pursuant
17 to the laws of any state or of the United States, for any offense
18 reasonably related to the qualifications, functions, or duties of any
19 activity licensed or regulated under sections 324.1180 to 324.1219, for
20 any offense an essential element of which is fraud, dishonesty, or an act
21 of violence, whether or not sentence is imposed;

22 (2) Use of fraud, deception, misrepresentation, or bribery in
23 securing any certificate, permit, or license issued under sections
24 324.1180 to 324.1219;

25 **(3) Obtaining or attempting to obtain any fee, charge, or other**
26 **compensation by fraud, deception, or misrepresentation;**

27 **(4) Violation of, or assisting, or enabling any person to violate,**
28 **any provision of sections 324.1180 to 324.1219, or of any lawful rule or**
29 **regulation adopted by the board under sections 324.1180 to 324.1219;**

30 **(5) Posing as a facility holding a license or allowing any person**
31 **or facility to use his or her license;**

32 **(6) Issuance of a license based upon a material mistake of fact;**

33 **(7) Violation of any professional trust or confidence;**

34 **(8) Use of any advertisement or solicitation which is false,**
35 **misleading, or deceptive to the general public or persons to whom the**
36 **advertisement or solicitation is primarily directed;**

37 **(9) Refusal of any applicant or licensee to cooperate with the**
38 **board during any investigation;**

39 **(10) Failure to display or present a valid license if so required**
40 **by sections 324.1180 to 324.1219 or any rule promulgated pursuant**
41 **thereto;**

42 **(11) Operating an auto body repair facility without a license as**
43 **required under section 324.1186;**

44 **(12) Repeated negligence in the performance of the functions or**
45 **duties of any activity licensed by 324.1180 to 324.1219.**

46 **3. After the filing of such complaint, the proceedings shall be**
47 **conducted in accordance with the provisions of chapter 621,**
48 **RSMo. Upon a finding by the administrative hearing commission that**
49 **the grounds for disciplinary action are met, as provided in subsection**
50 **2 of this section, the board shall censure or place the auto body repair**
51 **facility on probation in such terms as the board deems appropriate for**
52 **a period not to exceed five years, or may suspend the license for a**
53 **period not to exceed three years, or revoke the license of the facility. No**
54 **new license shall be issued to an auto body repair facility for one year**
55 **after the revocation. Any facility whose license has been revoked twice**
56 **within a ten-year period shall not be eligible for relicensure.**

57 **4. The applicant or licensee shall have the right to appeal the**
58 **board's decision in the manner provided in chapter 536, RSMo.**

59 **5. The board may notify the proper licensing authority of any**
60 **other state in which the auto body repair facility whose license was**
61 **disciplined is also licensed of the discipline in this state.**

62 **6. Any person, organization, association, or corporation who**
63 **reports or provides information to the board under the provisions of**
64 **sections 324.1180 to 324.1219 and who does so in good faith shall not be**
65 **subject to an action for civil damages as a result thereof.**

324.1210. 1. Upon proper application by the board, a court of
2 **competent jurisdiction may grant an injunction, restraining order, or**
3 **other order as may be appropriate to enjoin a person or business from:**

4 **(1) Offering to engage or engaging in the performance of any acts**
5 **or practices for which a certificate of registration or authority, permit,**
6 **or license is required by sections 324.1180 to 324.1219 upon a showing**
7 **that such acts or practices were performed or offered to be performed**
8 **without a certificate of registration or authority, permit, or license; or**

9 **(2) Engaging in any practice or business authorized by a**
10 **certificate of registration or authority, permit, or license issued under**
11 **sections 324.1180 to 324.1219.**

12 **2. Any such actions shall be commenced either in the county in**
13 **which such conduct occurred or in the county in which defendant**
14 **resides.**

15 **3. Any action brought under this section shall be in addition and**
16 **not in lieu of any penalty provided by law and may be brought**
17 **concurrently with other actions to enforce sections 324.1180 to 324.1219.**

324.1213. The board may make inspections to insure compliance
2 **with the provisions of sections 324.1180 to 324.1219 and the standards**
3 **established hereunder. A written report of findings, including a list of**
4 **deficiencies found, shall be prepared. A copy of the report and the list**
5 **of deficiencies found shall be sent to the business within fifteen**
6 **business days following the survey inspection. The list of deficiencies**
7 **shall specifically state the statute or rule which the business is alleged**
8 **to have violated. The business shall inform the board of the time**
9 **necessary for compliance and shall file a plan of correction. If the**
10 **business does not acknowledge the deficiencies, or file an acceptable**
11 **plan of correction with the board or timely complete an acceptable plan**
12 **of correction, the board may file a complaint with the administrative**
13 **hearing commission as set forth and as provided in sections 324.1180 to**
14 **324.1219.**

324.1216. The board is authorized to promulgate rules and
2 **regulations to administer and implement the provisions of sections**

3 324.1180 to 324.1219. Any rule or portion of a rule, as that term is
4 defined in section 536.010, RSMo, that is created under the authority
5 delegated in this section shall become effective only if it complies with
6 and is subject to all of the provisions of chapter 536, RSMo, and, if
7 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
8 are nonseverable and if any of the powers vested with the general
9 assembly pursuant to chapter 536, RSMo, to review, to delay the
10 effective date, or to disapprove and annul a rule are subsequently held
11 unconstitutional, then the grant of rulemaking authority and any rule
12 proposed or adopted after August 28, 2009, shall be invalid and void.

324.1219. 1. The board may, at their own initiative or in response
2 to complaints, investigate and gather evidence of violations of sections
3 324.1180 to 324.1219, or of any regulation adopted thereunder, by auto
4 body repair facilities.

5 2. The board may, upon a finding by a court that any person or
6 entity has violated any provision of sections 324.1180 to 324.1219,
7 impose a civil penalty in an amount not to exceed five thousand dollars
8 for the first occurrence of conducting business as an auto body repair
9 facility without a license. Each subsequent occurrence described in
10 this subsection is subject to a civil penalty not to exceed ten thousand
11 dollars. The civil penalties authorized by this section are in addition
12 to remedies afforded to the board in section 324.1207.

324.1222. 1. The board shall establish and administer a licensing
2 program for auto body physical damage appraisers. A person may not
3 appraise or estimate auto body physical damage unless such person is
4 licensed by the board under the provisions of sections 324.1222 to
5 324.1261. A person may be licensed as an auto body physical damage
6 appraiser upon submission and approval of a written application and
7 payment of a fee of one hundred dollars. An auto body physical damage
8 appraiser license issued under this section shall expire two years from
9 the date of issuance unless renewed according to the rules adopted by
10 the board. The fee for renewing a license issued under this section
11 shall be one hundred dollars. If a license issued under sections
12 324.1222 to 324.1261 lapses or if such license is not renewed in a timely
13 manner, then a fee to be set forth in board rules or regulation shall
14 accompany the renewal application.

15 2. Application for a license under sections 324.1222 to 324.1261

16 shall be on a form prescribed by the board, and shall contain all
17 information the board may require by rule and regulation.

18 3. Applications for a new or renewal of an auto body physical
19 damage appraiser license shall be reviewed by the board and a license
20 issued or denied within ninety days following receipt by the board of
21 the completed application and supporting documents.

22 4. To qualify for an auto body physical damage appraiser's
23 license under this section, an applicant shall:

24 (1) Possess Damage Analysis and Estimating Certification B6
25 certification from the National Institute for Automotive Service
26 Excellence; and

27 (2) Provide evidence that any entity on whose behalf the
28 individual will prepare or alter damage estimates is licensed as a
29 corporation to conduct business within Missouri.

30 5. An auto body physical damage appraiser shall be required to
31 successfully complete eight hours of continuing education annually that
32 meets the standards established by the board's regulations in order to
33 have the license renewed.

34 6. An auto body physical damage appraiser license shall be
35 considered lapsed if not renewed within thirty days of the expiration
36 date of the license.

324.1225. If an applicant for a license can verify that they have
2 been employed continuously as a physical damage appraiser or adjuster
3 for a five-year period prior to August 28, 2009, the licensing fee of one
4 hundred dollars shall entitle the individual to a provisional appraiser
5 license upon application. If the applicant has Damage Analysis and
6 Estimating Certification B6 from the National Institute for Automotive
7 Service Excellence, then the applicant shall receive a license.

324.1228. 1. In the case of catastrophic losses such as floods, hail,
2 or tornados, an auto body physical damage appraiser from any other
3 state requiring licensure under sections 324.1222 to 324.1261 shall have
4 his or her license from that state recognized by submitting information
5 as required by the board and payment of a twenty-five dollar temporary
6 permit fee.

7 2. If an out-of-state auto body physical damage appraiser does
8 not have a license from his or her home state, he or she shall apply to
9 the board for a temporary permit allowing work under the supervision

10 of a duly licensed Missouri auto body physical damage appraiser after
11 submitting a fifty dollar temporary permit fee.

12 3. As provided in subsections 1 and 2 of this section, an out-of-
13 state auto body physical damage appraiser shall be allowed to perform
14 his or her normal activities as long as he or she can provide proof of
15 application for a temporary permit.

16 4. In cases where the temporary permit is not issued by the
17 board, the board shall notify the auto body physical damage appraiser
18 immediately by either United States mail or electronic mail. Upon
19 receipt of such notice, the auto body physical damage appraiser shall
20 immediately cease performing as an auto body physical damage
21 appraiser in Missouri.

22 5. Any person violating the provisions of this section shall be
23 subject to a penalty of five hundred dollars by the board.

324.1231. 1. The board may refuse to issue or deny renewal of
2 any license required under sections 324.1222 to 324.1261 for failure to
3 comply with the provisions of sections 324.1222 to 324.1261 or any
4 regulations promulgated by the board to implement its provisions. The
5 board shall notify the applicant in writing of the reasons for the refusal
6 and shall advise the applicant of his or her right to file a complaint
7 with the administrative hearing commission as provided by chapter
8 621, RSMo.

9 2. The board may cause a complaint to be filed with the
10 administrative hearing commission as provided by chapter 621, RSMo,
11 against any holder of any license or person providing services covered
12 by sections 324.1222 to 324.1261 or any person who has failed to renew
13 or has surrendered his or her license for any one or any combination
14 of the following causes:

15 (1) Use or unlawful possession of any controlled substance, as
16 defined in chapter 195, RSMo, or alcoholic beverage to an extent that
17 such use impairs a person's ability to perform the work of any activity
18 licensed or regulated by sections 324.1222 to 324.1261;

19 (2) Being finally adjudicated and found guilty, or having entered
20 a plea of guilty or nolo contendere, in a criminal prosecution pursuant
21 to the laws of any state or of the United States, for any offense
22 reasonably related to the qualifications, functions, or duties of any
23 activity licensed or regulated under sections 324.1222 to 324.1261, for

24 any offense an essential element of which is fraud, dishonesty, or an act
25 of violence, whether or not sentence is imposed;

26 (3) Use of fraud, deception, misrepresentation, or bribery in
27 securing any certificate, permit, or license issued under sections
28 324.1222 to 324.1261;

29 (4) Obtaining or attempting to obtain any fee, charge, tuition, or
30 other compensation by fraud, deception, or misrepresentation;

31 (5) Incompetency, misconduct, gross negligence, fraud,
32 misrepresentation, or dishonesty in the performance of the functions
33 or duties of any activity licensed or regulated by sections 324.1222 to
34 324.1261;

35 (6) Violation of, or assisting or enabling any person to violate,
36 any provision of sections 324.1222 to 324.1261, or of any lawful rule or
37 regulation adopted by the board under sections 324.1222 to 324.1261;

38 (7) Disciplinary action against the holder of a license regulated
39 by sections 324.1222 to 324.1261 granted by another state upon grounds
40 for which discipline is authorized in this state;

41 (8) For an individual, being finally adjudged insane or
42 incompetent by a court of competent jurisdiction;

43 (9) Issuance of a license based upon a material mistake of fact;

44 (10) Violation of any professional trust or confidence;

45 (11) Use of any advertisement or solicitation which is false,
46 misleading, or deceptive to the general public or persons to whom the
47 advertisement or solicitation is primarily directed;

48 (12) Violation of the drug laws or rules and regulations of this
49 state, any other state or the federal government;

50 (13) Refusal of any applicant or licensee to cooperate with the
51 board during any investigation;

52 (14) Repeated negligence in the performance of the functions or
53 duties of any activity licensed by 324.1222 to 324.1261.

54 3. Upon a finding by the administrative hearing commission that
55 the grounds for disciplinary action are met, as provided in subsection
56 2 of this section, the board may censure or place the person named in
57 the complaint on probation on such terms and conditions as the board
58 deems appropriate for a period not to exceed five years, or may
59 suspend the license for a period not to exceed three years, or revoke
60 the license in accordance with section 324.1237.

61 4. An individual whose license has been revoked shall wait one
62 year from the date of revocation to apply for a license. The board at its
63 discretion may issue a license after compliance with all the
64 requirements of sections 324.1222 to 324.1261. Any individual whose
65 license has been revoked twice within a five-year period shall not be
66 eligible for licensure.

67 5. The board may notify the proper licensing authority of any
68 other state in which the person whose license was disciplined was also
69 licensed of the discipline in this state.

70 6. Any person, organization, association, or corporation who
71 reports or provides information to the board under the provisions of
72 sections 324.1222 to 324.1261 and who does so in good faith shall not be
73 subject to an action for civil damages as a result thereof.

 324.1237. 1. The board may impose a civil penalty up to a
2 maximum of two thousand five hundred dollars for every violation of
3 sections 324.1225 to 324.1261 occurring within a calendar year.

4 2. The board may, on a second offense within a twelve month
5 period, impose a civil penalty not to exceed three thousand five
6 hundred dollars. The board may also suspend the physical damage
7 appraiser's license for a period of not less than six months or more
8 than twenty-four months.

9 3. Any person who has his or her physical damage appraiser's
10 license suspended three times in a two calendar year period shall have
11 his or her license revoked.

12 4. The board shall impose a civil penalty of five thousand dollars
13 against any person who practices as an auto body physical damage
14 appraiser without a license. The board shall seek an injunction in
15 circuit court to require a person operating as an auto body physical
16 damage appraiser to cease and desist operations for failing to comply
17 with sections 324.1222 to 324.1261.

 324.1240. The board shall maintain a current roster of all auto
2 body physical damage appraisers that are licensed to do business in the
3 state of Missouri. The roster shall be available electronically in a
4 format prescribed by the board.

 324.1243. A licensed Missouri auto body physical damage
2 appraiser, while engaged in appraisal duties, shall carry on his or her
3 person at all times his or her license. The appraiser shall produce such

4 license, upon request, to an owner whose vehicle is being inspected, to
5 the auto body repair facility representative involved, or to any
6 authorized representative of the board.

324.1246. The board may assess penalties to any auto body
2 physical damage appraiser that exhibits a pattern or practice of
3 preparing written appraisals underestimating the final costs of repairs
4 by more than ten percent of the final repair invoice. The board shall
5 promulgate rules as to what constitutes a pattern or practice of
6 underestimating repairs. A physical damage appraiser violating the
7 provisions of this section shall be subject to the penalties set forth in
8 section 324.1237.

324.1249. An estimate prepared by an auto body repair facility
2 based on a given flat rate manual or automated appraisal system that
3 is questioned by the insurer shall be subject to audit only by the same
4 manual or system.

324.1252. No auto body physical damage appraiser or other
2 person shall adjust or change a damage appraisal or estimate when the
3 extent of damage is in dispute without making arrangements for a
4 physical inspection of the motor vehicle with the auto body repair
5 facility.

324.1255. When preparing an estimate of damage, an auto body
2 physical damage appraiser shall use an accepted published flat rate
3 manual or automated appraisal system. The flat rate manual or
4 automated appraisal system shall be used in its entirety and without
5 modifications to establish the cost of repairs to a motor vehicle. Retail
6 labor rates shall be used in determining any prevailing labor rate. An
7 auto body physical damage appraiser shall execute the same duty of
8 care when preparing an estimate of damage for a motor vehicle owner
9 in the absence of a licensed auto body repair facility.

324.1258. 1. In any motor vehicle damage case, no auto body
2 physical damage appraiser or insurer, officer, broker, agent, attorney-
3 in-fact, employee, or other representative of an insurer shall:

4 (1) Limit the freedom of a claimant to choose an auto body repair
5 facility;

6 (2) Require a claimant to present the automobile for loss
7 adjustment or inspection at any facility under the control of the
8 insurer;

9 **(3) Use intimidation, or coercive tactics in negotiating repairs to**
10 **damaged motor vehicles;**

11 **(4) Attempt to persuade, require, coerce, or pressure the vehicle**
12 **owner to use an auto body repair facility other than a facility of his or**
13 **her choice after the vehicle owner states a choice;**

14 **(5) Adjust or pay a claim for repairs of an insured's or claimant's**
15 **vehicle with an auto body repair facility which does not have a current**
16 **auto body repair facility license under sections 324.1180 to 324.1219.**

17 **2. As used in this section, the term "claimant" shall mean the**
18 **person seeking repair of a motor vehicle whether that person is the**
19 **insured person or a third party making a claim against the insurance**
20 **company.**

324.1261. All appraisals or estimates for a motor vehicle physical
2 **damage claim written on behalf of an insurer shall include immediately**
3 **below the heading of the estimate the following notice, printed in not**
4 **less than ten-point boldfaced type:**

5 **NOTICE UNDER MISSOURI LAW, THE VEHICLE OWNER AND/OR**
6 **LESSEE HAS THE RIGHT TO CHOOSE THE REPAIR FACILITY TO**
7 **MAKE REPAIRS TO THEIR MOTOR VEHICLE. NO ONE SHALL USE**
8 **INTIMIDATION OR COERCIVE TACTICS TO ALTER THE OWNER'S**
9 **CHOICE.**

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